

185. Boro created and continues to create a common law private nuisance in the same manner as the School District as alleged by Paragraphs 70 through 73 hereinabove the allegations of which are incorporated by reference as if set forth herein.

186. Boro's conduct constitutes a violation of its duty under the common law of Pennsylvania not to create a private nuisance.

187. Boro's violation of its duty is a proximate cause of the harm suffered by the Beaumont Property.

188. Boro should be ordered to abate its common law private nuisance completely and permanently.

WHEREFORE, Plaintiff Beaumont Retirement Community, Inc. t/a Beaumont at Bryn Mawr, prays for judgment against Defendant Boro Developers, Inc. t/a Boro Construction as follows:

1. compensatory damages in an amount equal to the cost to remediate the Beaumont Property to the condition that existed prior to the aforealleged violations;
2. an injunction, together with other appropriate equitable relief, requiring Boro Developers, Inc. t/a Boro Construction to cease construction on the School District Property pending compliance with private nuisance common law; and
3. Plaintiff's attorneys' fees, expert witness fees, and costs, and such other relief as deemed appropriate.

COUNT XXIII

(Boro's Public Nuisance at Common Law)

189. Plaintiff incorporates by reference and realleges Paragraphs 1 through 188 as if fully set forth herein.